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EXAMINER

WINTERS, MAREISHA N

ART UNIT PAPER NUMBER

2153

DATE MAILED: 09/08/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/559,844

Applicant(s)

BISHOP ET AL.

Examiner

Mareisha N. Winters

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 23-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 23-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to the communication filed on July 7, 2003. Claims 16-22 have been withdrawn from further consideration. Claims 37-39 have been newly added.
2. Claims 1-15 and 23-39 are pending in the application.

Election/Restrictions

3. Claims 16-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

Drawings

4. The drawings were received on July 21, 2003. These drawings are acceptable.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the client" in line 3. This limitation is vague and ambiguous. In order to clarify the claim language should "the client" be --the client computer--?

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-4, 6-9, 12, 14, 15, 23-25, 33-35 and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,199,180 to Ote et al. (hereinafter "Ote").

In considering claim 1, Ote discloses a client computer (Fig. 1A, "10") for use in connection with a client computer system and a remote management machine (Fig. 1B, "27"), comprising:

a client processor operable to control the client computer (Fig. 1A, "17"); and

a computing component having a remote management processor operable to selectively control the client computer (Fig. 1A, "12"), independently of the client processor (column 3, lines 1-3), in response to instructions from the remote management machine (column 3, lines 3-7 and column 14-16).

In considering claim 2, Ote further discloses a network component installed on the computing component, facilitating communication with the remote management machine (Fig. 1A, "25").

In considering claim 3, Ote discloses wherein the client computer system includes two or more clients configured in a network environment (column 1, lines 10-15).

In considering claim 4, Ote discloses wherein the computing component network component (Fig. 1A, "25") and the client networked environment are separate (column 1, lines 10-13).

In considering claim 6, Ote discloses wherein the client computer is a server computer (column 1, lines 12-15)

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In considering claim 7, Ote discloses a computer-readable medium having computer-executable components, comprising:

a first communication component for communicating with and operable to selectively control a client (column 4, lines 65-67); and

a second communication component for communicating with a remote manager (column 5, lines 14-16).

In considering claim 8, Ote discloses wherein the client has an operating system (Fig. 1A, “161”), and wherein the first communication component is operable to control the operating system of the client (Fig. 1A, “17” and “161”, Note the connection between components “17” and “161”).

In considering claim 9, Ote discloses wherein the client has hardware components thereon (Fig. 1A) and wherein the first communication component is operable to control the hardware components of the client (column 4, lines 65-67).

In considering claims 10 and 32, Ote discloses further comprising an interface component for capturing and transferring client display information to the remote manager (column 8, lines 2-5).

In considering claim 11, Ote discloses wherein the display information is graphical display information (column 8, lines 2-5).

In considering claim 12, Ote discloses wherein the first communication component includes a client management component operable to request, collect (column 2, lines 67 – column 3, line 1) and store client management data (column 7, line 36).

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In considering claims 14 and 39, Ote discloses wherein the client management data includes performance monitoring data (column 1, lines 10-12).

In considering claim 15, Ote discloses wherein the client is in a networked environment and wherein the second communication component includes a network component operable to communicate with the remote manager independently of the client networked environment (Fig. 1A, "25" and column 1, lines 10-13).

In considering claim 23, Ote discloses a method in a computer system for managing one or more clients (column 1, lines 10-15) having a client processor (Fig. 1A, "17") and a computing component installed on the client (Fig. 1A, "12"), the computing component being operable to control the client and having a network component installed thereon, wherein the computing component is independent of the client processor (column 3, lines 1-3), the method comprising:

remotely controlling the client by communicating with the computing component through the network component utilizing a remote manager (Fig. 1B, "27").

In considering claim 24, Ote discloses wherein two or more clients are configured in a networked environment independent of the computing component network component for creating the networked environment that is separate from the network component (Fig. 1A, "25" and column 1, lines 10-13).

In considering claim 25, Ote discloses further comprising monitoring the one or more clients for error conditions by collecting data via the computing component (column 2, lines 67 – column 3, line 1).

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In considering claim 33, Ote discloses a computer readable medium having computer executable instructions for executing the steps recited in claim 23 (It is inherent that the computer system would have computer executable instructions for carrying out the method steps.).

In considering claim 34, Ote discloses having a processor, an operating system, and a memory, the computer system operable to perform the steps in claim 23 (Fig. 1A).

In considering claim 35, Ote discloses a computing component for use in a client computer, the client computer having a client processor, the computing component comprising:
a remote management processor, operable to selectively control the client computer (Fig. 1A, "12"), independently of the client processor (column 3, lines 1-3); and
a network component facilitating communication with the computing component (Fig. 1A, "25").

In considering claim 37, Ote discloses wherein remotely controlling the client includes querying the computing component through the network component for data indicative of one or more client properties (column 5, lines 33-39), and transmitting the indicative data from the computing component through the network component (column 8, lines 2-3).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5 and 36 rejected under 35 U.S.C. 103(a) as being unpatentable over Ote.

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In considering claims 5 and 36 Ote fails to explicitly teach wherein the computing component is a single board computer. Nonetheless, these features are well known in the art and would have been an obvious modification to the system disclosed by Ote. A person having ordinary skill in the art would have readily recognized the advantages and desirability of having a computing component that is a single board computer in order to reduce the cost of the system as well as the power consumption.

11. Claims 13, 26-31, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ote in view of U.S. Patent No. 6,578, 077 to Rakoshitz et al. (hereinafter "Rakoshitz").

In considering claims 13, 26 and 38, Ote fails to disclose wherein the client management data includes capacity planning data. Nonetheless, this feature is well known in the art and would have been an obvious modification to the system disclosed by Ote, such as evidenced by Rakoshitz.

In an analogous art, Rakoshitz discloses a method and system for monitoring or profiling quality of service within a network of computers, wherein the data collected includes capacity planning data (column 9, lines 45-48). Given this teaching by Rakoshitz, a person having ordinary skill in the art would have readily recognized the advantages and desirability of modifying Ote, by employing this well known feature in order to give a more precise analysis of the functioning of the client computer.

In considering claim 27, Ote discloses wherein the monitoring step includes collecting performance monitoring data (column 1, lines 10-12).

In considering claim 28, Ote discloses storing the collected data on the computing component (column 7, line 36).

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In considering claim 29, Ote discloses transferring the stored data to the remote manager utilizing the network component (column 8, lines 2-3).

In considering claim 30, Ote discloses remotely rebooting the client from the remote manager utilizing the computing component (column 8, lines 45-51).

In considering claim 31, Ote fails to disclose receiving, by the computing component from the remote manager, software and storing the software on the computing component. Nonetheless this feature is well known and a person of ordinary skill in the art would have readily recognized the advantages and desirability of modifying Ote by employing this well known feature in order to allow for different remote managers to be connected to the computing component by sending the appropriate software to perform remote management.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,999,179 to Kekic et al.

U.S. Patent No. 6,401,116 to Okigami

U.S. Patent No. 6,408,335 to Schwaller et al.

U.S. Patent No. 6,446,124 to Collins et al.

U.S. Patent No. 6,496,858 to Frailong et al.

U.S. Patent No. 6,532,497 to Cromer et al.

U.S. Patent No. 6,598,071 to Hayashi et al.

U.S. Patent No. 6,604,207 to Sheikh et al.

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13. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mareisha N. Winters whose telephone number is (703) 305-7838. The examiner can normally be reached on Monday-Friday, 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239 for official communications, (703) 746-7238 for After Final communications and (703) 746-7240 for non-official communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Mareisha N. Winters *mnw*
Patent Examiner
Art Unit 2153
August 25, 2003


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